

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

NAI'QUESHA VALENTINE,
On behalf of T.J., Jr.,

Plaintiff,

v.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

No. 3:14-cv-01904

Judge Nixon
Magistrate Judge Bryant

ORDER

Pending before the Court is the Commissioner's Motion to Dismiss ("Motion"), in which she requests the Court dismiss this matter because Plaintiff Nai'Quesha Valentine failed to timely file her complaint. (Doc. No. 11.) On January 15, 2015, Magistrate Judge Bryant issued a Report and Recommendation ("Report") recommending that the Commissioner's Motion be granted. (Doc. No. 14 at 3.) Upon consideration of Ms. Valentine's statement opposing the Commissioner's Motion (Doc. No. 16) and Objection to the Report (Doc. No. 19), this Court determined Ms. Valentine had not presented sufficient "actual evidence showing that [she] received the [Social Security Administration's] notice after that grace period" and ordered Ms. Valentine to show cause within twenty-one days why the Commissioner's Motion should not be granted. (Doc. No. 20 at 3 (quoting *Fleming v. Astrue*, No. 12-CV-11268, 2012 WL 6738473, at *3 (E.D. Mich. Oct. 29, 2012), *report and recommendation adopted sub nom. Fleming v. Comm'r of Soc. Sec.*, No. 12-CV-11268-DT, 2012 WL 6738475 (E.D. Mich. Dec. 31, 2012)).) Ms. Valentine responded to the Order on October 2, 2015, stating she was unable to timely file her complaint for "circumstances out of my control." (Doc. No. 22 at 1.)

Upon review of the response, the Court finds Ms. Valentine still has not presented actual evidence that she received the letter after the five-day grace period provided by the Social Security

Administration's regulations. Accordingly, Ms. Valentine has not met the "reasonable showing" requirement necessary to excuse her failure to timely file her complaint and, for the reasons stated in the show cause Order, the Magistrate Judge's Report (Doc. No. 14) is **ADOPTED** as modified by the Order and the Commissioner's Motion (Doc. No. 11) is **GRANTED**. The Clerk of the Court is directed to **CLOSE** the case.

It is so ORDERED.

Entered this the 15th day of October, 2015.



JOHN T. NIXON, SENIOR JUDGE
UNITED STATES DISTRICT COURT